

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON AGRICULTURE**

**Call to Order:** By **VICE CHAIRMAN RALPH LENHART**, on March 13, 2001  
at 3:00 P.M., in Room 172 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Linda Holden, Vice Chairman (R)  
Rep. Ralph Lenhart, Vice Chairman (D)  
Rep. Darrel Adams (R)  
Rep. Norma Bixby (D)  
Rep. Gilda Clancy (R)  
Rep. Rick Dale (R)  
Rep. Dave Gallik (D)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Christopher Harris (D)  
Rep. Verdell Jackson (R)  
Rep. Jim Keane (D)  
Rep. Larry Lehman (R)  
Rep. Holly Raser (D)  
Rep. Clarice Schrumpf (R)  
Rep. Frank Smith (D)  
Rep. Butch Waddill (R)  
Rep. Karl Waitschies (R)  
Rep. Merlin Wolery (R)

**Members Excused:** Rep. Donald L. Hedges, Chairman (R)

**Members Absent:** None.

**Staff Present:** Krista Lee Evans, Legislative Branch  
Robyn Lund, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 196, 3/9/2001  
Executive Action: SB 81; SB 259

EXECUTIVE ACTION ON SB 81

**Motion/Vote:** REP. HEDGES moved that SB 81 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON SB 259

**Motion/Vote:** REP. HEDGES moved that SB 259 BE CONCURRED IN. Motion carried unanimously.

HEARING ON HB 197

**Sponsor:** Senator John Tester, SD 45

**Proponents:** Kelley Flaherty-Settle, NPRC, AERO  
Art Loendorf, Montana Farmer's Union  
Carol Lambert, WIFE  
John Lockie, Ranchers Cattlemen Action Legal Fund  
Lorna Karn, Montana Farm Bureau  
Sharon Hoff-Brodowy, Montana Catholic Conference  
Don Taylor, Campaign to Reclaim Rural America  
Dr. Scott Settle, Settle Ranch Company  
Betty Whiting, Montana Association of Churches  
Ed Mott, rancher  
John Bloomquist, Montana Stock Growers Association,  
Montana Wool Growers Association  
Don Judge, AFL-CIO

**Opponents:** Brad Griffin, Montana Retail Association  
Charles Brookes, Montana Food Distributors  
Leo Berry, Kraft Foods  
Mark Taylor, Anheiser-Busch  
Aidan Myhre, Montana Chamber of Commerce

**Informational Witnesses:** Jack Kane, Department of Commerce,  
Weights and Measures

Opening Statement by Sponsor:

Senator John Tester, SD 45, stated that this bill deals with country of origin labeling of foods. It is pretty self explanatory. It calls for retailers to place a placard stating what the food comes from. If that can't be determined the placard would read "Country of Origin Unknown." This could be a great marketing tool. He asked the committee what could be more important than knowing where your food comes from.

**Proponents' Testimony:**

**Kelley Flaherty-Settle, NPRC, AERO**, submitted written testimony and supplemental information. **EXHIBIT (agh57a01)**  
**EXHIBIT (agh57a02)**

**Art Loendorf, Montana Farmer's Union**, stated that people, farmers and ranchers, are proud of what they raise. More than ever we need to know where our food is coming from. He submitted a chart that showed a red, green and yellow stop light.

**EXHIBIT (agh57a03)** Red would be grown and packaged without USDA regulations; yellow would be may contain some unknown chemical; green would be grown and packaged to USDA standards. The opposition to this bill is saying that people don't care where their food comes from, but he doesn't agree with that. People do care. Labeling is inevitable. Are we going to protect Montana's agriculture? Are we going to be a leader or just another follower?

**Carol Lambert, WIFE**, stated that agriculture is the number one product in Montana. She emphasized that people do care where their food comes from. They have just had the first confirmed case of Hoof and Mouth disease in Europe. Montana Products need to say where they come from.

**John Lockie, Ranchers Cattleman Action Legal Fund**, submitted written testimony. **EXHIBIT (agh57a04)**

**Lorna Karn, Montana Farm Bureau**, stated that for a number of years members of her organization have felt that the products that they raise should be labeled at the retail level. This is one way that the United States can be assured of a stable, ample, safe and nutritious food supply.

**Sharon Hoff-Brodowy, Montana Catholic Conference**, submitted written testimony. **EXHIBIT (agh57a05)**

**Don Taylor, Campaign to Reclaim Rural America**, submitted written testimony. **EXHIBIT (agh57a06)**

**Dr. Scott Settle, Settle Ranch Company**, stated that he had polled his corporation to find out where they stand on this issue. They voted unanimously for this bill. He shared that when he was growing up they always bought locally, this added to the local economy and the tax base. That tax base is used to fund things like schools. It is hard to buy locally now though because consumers don't know where their beef is coming from. The ranchers may buy locally, but the consumers are unable to reciprocate. This bill could be a stepping stone for the state

to earn more revenue. This is also a human health issue. He stated that one in five purchases of beef will have a country of origin other than the US. He submitted a new magazine that dealt with the "Slow Deadly Spread of Mad Cow Disease."

**EXHIBIT (agh57a07)** There are currently no cases of Mad Cow in the US. He wants to protect his family; he wants to know where his beef is coming from. This will drive the consumer back to the product and help the consumer to make safe choices. He emphasized that the cost to this bill was only fifty cents per person per year.

**Betty Whiting, Montana Association of Churches,** stated that her organization supports family farms. They also support this bill for food safety reasons. "The Montana Association of Churches seeks policies, which at the local, state and national levels, will help preserve the family farm system and the vitality of rural communities." It is essential that we know where our food is coming from, so that we are able to support local farmers and ranchers. She stated that eating is a moral act. "I believe that all my actions have an affect on the common good of creation. I believe that I have the personal and political responsibility to supporting farmers and the creation of a safe self-reliant food system."

**Ed Mott, rancher,** asked the committee, unless the beef he was eating was his or his neighbor's calf, how is he supposed to know if it is American or not. This is a chance for us to be proactive, we need to take that chance. We need to tell the national government that we do need country of origin labeling. This has already been passed in Florida, California, Wyoming, South Dakota and Idaho.

**John Bloomquist, Montana Stock Growers Association, Montana Wool Growers Association,** stated that both organizations support this bill. Stock Growers have a three-point marketing plan to increase the value back to the producers. Included in that would be mandatory price importing, country of origin labeling and use of the USDA grade. This will take federal action to work fully, but to the degree that a state would pass legislation, perhaps that will encourage the federal government to take action. This provides another opportunity for consumers and producers to know the origin of the product they are consuming or purchasing.

**Don Judge, AFL-CIO,** said that this is an effort to help do something to deal with a failing economy in rural Montana. There are hundreds of dislocated farmers and ranchers across the state due to the economy in those communities. He believes that part of the problem with the economy is due to an unfair foreign market. This legislation is designed to help consumers purchase

made in America products. This is also a food safety issue. He submitted supplemental information. **EXHIBIT (agh57a08)**  
**EXHIBIT (agh57a09)**

**Opponents' Testimony:**

***{Tape : 1; Side : A; Approx. Time Counter : 51.5}***

**Brad Griffin, Montana Retail Association,** said that 120,000 cattle left Montana and went to cattle to be slaughtered. We don't have the facilities to slaughter cattle in Montana. Where are the cattle that leave for 90 days to be finished in Canada going to be considered to be from? This bill presents some real problems for retailers. The country of origin unknown placard in the window is an unacceptable sign to have in your meat case. It raises unfounded safety concerns in the consumer's mind. This needs to be a resolution for the national Congress to pass a country of origin bill.

**Charles Brookes, Montana Food Distributors,** submitted written testimony. **EXHIBIT (agh57a10)**

**Leo Berry, Kraft Foods,** said that this is a well-meaning, but inartfully crafted bill that is fraught with problems that need to be addressed. There are three sections to this bill. Section 1 allows Montana producers to label the beef. This section is fine. Sections 2 and 3 are where the problem is found. On page 2, line 3, the bill is not limited to meat. It is not clear if it applies to bulk product or processed product. Grains are used in a lot of different products, for example, cereal and beer. The way he reads this bill is that it would require placarding above each of those products. There is no definition of what a retail vendor is.

**Mark Taylor, Anheiser-Busch,** read the definition of package. "Package means a container or wrapping in which a consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers." This is a lose-lose situation for Anheiser-Busch. They purchase \$47 million per year in malt barley in the state of Montana. Unfortunately, that is blended with products from other states, so they won't be able to take advantage of the made in Montana marketing ploy. They currently import some grains for specialty beers. Even though the beer contains 99.9% American products, they would have to say country of origin unknown. If this bill passes, undoubtedly, the constitutionality of this will be challenged. This also would pose an enforcement nightmare. This needs to be handled on the federal level.

**Aidan Myhre, Montana Chamber of Commerce**, supports the intent of this bill, but opposes the bill. They support the promotion of Montana made products. They are concerned about the bill's inclusion of the word grains and the broad depth of products that actually touches and the impact of that on the retail industry. They are also concerned about the enforce ability of this law.

**Informational Testimony:**

**Jack Kane, Department of Commerce, Weights and Measures**, is here to answer questions.

**Questions from Committee Members and Responses:**

*{Tape : 1; Side : B; Approx. Time Counter : 11.9}*

**REPRESENTATIVE FRANK SMITH** clarified that there are no packing plants in the state that can handle this. **Mr. Brookes** said that there are some small packing plants in the state, but a major amount of the beef that comes into the state is coming from out of state. **REP. SMITH** asked if the meat coming out of Canada could be labeled from one source under this. **Mr. Brookes** said that if they knew it was coming out of Canada, the retailer would label that as a product of Canada. **REP. SMITH** asked for the vote from the Montana Food Distributors. **Mr. Brookes** did not have that information.

**REPRESENTATIVE LARRY LEHMAN** asked why the Senate changed the terminology from label to placard. **Senator Tester** said that it was a work-ability issue. They felt it would be more cost effective and a little less hassle to use placards. **REP. LEHMAN** clarified that a placard could be placed in a section of the store and the products that relate to the placard could be stacked behind it, but the products themselves would not have to be labeled individually. **Senator Tester** said that was correct.

**REPRESENTATIVE VERDELL JACKSON** asked if it was safe to eat a hot dog. **Mr. Kane** said that was out of his scope of authority. **REP. JACKSON** asked what products he would be dealing with. **Mr. Kane** said that as this bill is written it would give the Weights and Measures Bureau the authority to oversee this bill. It also gives a lot of authority to write administrative rules. **REP. JACKSON** what would be involved to handle the meat problem. **Mr. Kane** said that part of Weights and Measures' function is checking the net contents of packaged goods. In doing this they are already in the stores at the retail level. He doesn't see this adding any great undue burden to the meat wrappers. As far as them being able to check this, they are in the stores already.

It will take one additional person to enforce this. **REP. JACKSON** asked if there is a law in place to cover beef byproducts.

**Mr. Kane** said that authority would fall with DPHHS, not with Department of Commerce.

**REPRESENTATIVE LINDA HOLDEN** asked if there was an issue with constitutionality in this bill. **Mr. Bloomquist** said that there could be, yes. **REP. HOLDEN** asked about Wyoming's law.

**Mr. Bloomquist** said that his recollection was that it is a very similar law and it is being challenged. **REP. HOLDEN** asked who addresses food safety in Montana. **Mr. Bloomquist** said that would be the DPHHS, Department of Agriculture, Department of Commerce. Different areas are covered by different departments at the state level. USDA has a large role. **REP. HOLDEN** asked if including grains was going to be a nightmare. **Mr. Bloomquist** said that depending on how the law would be interpreted it would be a difficult task. **REP. HOLDEN** asked how this would affect the small retailers, who will have to pay? **Mr. Bloomquist** said that, as he reads it, there is no requirement for the producers to pay, so he would assume that the retailers are going to have to pay for the placard. **REP. HOLDEN** asked if this would make small stores subject to being criminals. **Mr. Bloomquist** said that he would interpret the first three offenses as civil penalties. The fourth offense gets into a misdemeanor penalties.

**REPRESENTATIVE CHRISTOPHER HARRIS** asked how they would implement this in the case of vending machines. **Mr. Kane** said that this would be addressed in the administrative rules.

**REP. HARRIS** asked, if this is a safety measure, should fruits and vegetables and seafood be included. **Dr. Settle** said that, generally speaking, animal products carry disease more often than plant products. Plants should be included, though, because different countries have different regulations as far as pesticides, et cetera. He felt that seafood should be included.

**REPRESENTATIVE HOLLY RASER** asked the sponsor to address packaged products. **Senator Tester** said that it deals with how you want to do business. He feels that it would be a lot easier than what people are saying. You can look at this as being a restrictive cost measure or as a marketing tool. He feels that this could be a vital tool for the small stores because they have the ability to work with the small producers. **REP. RASER** asked why fruits and vegetables were removed. **Senator Tester** said that it was removed in an effort to appease the only opponents at the Senate hearing.

**REPRESENTATIVE GILDA CLANCY** asked if this would be difficult for the large retailers to comply with since their cereals are manufactured with many different ingredients from different parts of the world. **Senator Tester** thinks that it depends on the commitment of the manufacturers to maintain the identity of the product. He pointed out that there are no penalties in the first year. **REP. CLANCY** asked for the sponsor to address the concerns brought up about the word grains. **Senator Tester** said that he doesn't see it as being a big problem. It is a different way of doing business and he thinks that people have some heartburn when it comes to doing business in a different way.

**REPRESENTATIVE DON HEDGES** asked about a product like Wheat Montana, where everything is from Montana except a dash of salt or cinnamon, how would that be labeled? **Mr. Kane** said that issues could be addressed in administrative rules. **REP. HEDGES** said that the way this is currently written, they would have little choice but to say that portions of this product are from areas unknown. **Mr. Kane** thought that this could be addressed to limit it to major ingredients.

**REPRESENTATIVE KARL WAITSCHIES** asked if this could backfire if we label our meat as made in Montana and a brucellosis problem with the buffalo comes up. **Senator Tester** said that it is always possible, but he would put his farm on the line. **REP. WAITSCHIES** asked if restaurants would be considered a retail vendor. **Senator Tester** has an amendment to make it optional for restaurants.

**REPRESENTATIVE BUTCH WADDILL** asked if the sponsor thinks that mandatory labeling of Montana products would assist our state's agriculture. **Senator Tester** said yes. He feels that market identity is critical. This bill will enhance our ability to maintain our market identity.

**REP. WADDILL** asked if Mr. Taylor felt that this bill would unfairly put Montana's micro brews into a better position. **Mr. Taylor** said that the micro brews are not in competition with Anheiser-Busch.

**REP. WADDILL** asked if Mr. Berry had said that this bill would not satisfy the food safety concerns. **Mr. Berry** replied that packaging and labeling and placarding is not related to food safety. He doesn't believe that this will help with that concern.

**REPRESENTATIVE MERLIN WOLERY** asked if ignoring the small portions, such as cinnamon in bread, would cause us to lose the



purity of the made in America. **Senator Tester** thinks that ignoring them is a reasonable thing to do. It does detract from the bill, but it makes it much more workable. **REP. WOLERY** asked about the "dual-citizen caws," that are slaughtered in Canada, but grown here. **Senator Tester** said that he feels that they would be labeled from Canada.

**REP. LEHMAN** said that it appears to him that the store could just pay the \$2,850 and that would be the maximum penalty that they would have to pay. **Mr. Berry** said that it isn't clear in the law, but it is a point well taken.

**REP. RASER** asked if the supplier was finding that the product wasn't selling as well with the country of origin unknown, would that put pressure on the supplier to find out the information.

**Mr. Brookes** thinks that it would. **REP. RASER** asked if most stores now label the organic versus the non-organic produce.

**Mr. Brookes** said that you pay a premium for the organic, so if they can label and charge for it they will. **REP. RASER** asked if it would meet the intention of the law to post a disclaimer.

**Mr. Brookes** would argue that right now you can go to the store and purchase products that are made in Montana. **REP. RASER** asked if most of the blended products already go through USDA inspection. **Mr. Brookes** assumes that everything they eat is from an approved USDA source.

**REPRESENTATIVE DARREL ADAMS** said that right now there are many items that are labeled with the origin, where are these labels put on. **Senator Tester** thinks that they are put on at the manufacturer. **REP. ADAMS** asked why not require that instead of at the retail level. **Senator Tester** said that we don't have enough clout to do that.

**REPRESENTATIVE DAVE GALLIK** asked how many other states have some sort of similar statute. **Senator Tester** said that Florida, Louisiana, North Dakota, Wyoming, Idaho and South Dakota have similar laws.

**REP. GALLIK** asked Mr. Taylor if he was aware of any challenges in the states that have similar legislation, and what the results were. **Mr. Taylor** said that Mr. Bloomquist had testified that he was aware of at least one challenge.

**REP. CLANCY** asked if Mr. Kane feels that they can implement this program with just one full-time employee. **Mr. Kane** said yes.

**Closing by Sponsor:**

**{Tape : 2; Side : A; Approx. Time Counter : 9.5}**

**Senator Tester** addressed some concerns that had been brought up. Concern about there not being slaughter houses in Montana is true. He feels that the demand for some in Montana could help the small ones expand and new ones to form. Country of origin unknown placard may raise safety concerns, it shouldn't, but if it does it increases the demand for Montana foods. National legislation is needed. He asked if national legislation were proposed, would the retailers support it? We have no problems with the food supply in this country, let's keep it that way; this is one of the ways we could do it. The fact is that if family farm agriculture is going to make it in this world we need to start working together. This may help in that. This bill passed the Senate 49 to 1. If we can get this done, we will really be helping ourselves in the state. People want to know where their food comes from. What we are really talking about with this bill is production agriculture. Farms and ranches are disappearing. We need to help those people.

**ADJOURNMENT**

Adjournment: 5:30 P.M.

---

REP. RALPH LENHART, Chairman

---

ROBYN LUND, Secretary

RL/RL

**EXHIBIT** (agh57aad)